

March 25, 2002

To: Supervisor Zev Yaroslavsky, Chair
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

Lloyd W. Pellman
County Counsel

Pastor Herrera, Jr.
Director of Consumer Affairs

FOLLOW-UP REPORT ON RESTRICTIONS FOR DOOR-TO-DOOR SOLICITATION

On February 13, 2001, on motion of Supervisor Knabe, the Board instructed County Counsel, the Director of Consumer Affairs, and the Chief Administrative Office (CAO), through the Office of Unincorporated Area Services (OUAS), in consultation with appropriate departments, to investigate what policies and restrictions exist for door-to-door solicitation, possible methods of enforcement, including identification cards, and to examine the feasibility of imposing restrictions, and report back to the Board within 60 days.

On July 2, 2001, a report was prepared for your Board, which discussed the following issues related to door-to-door solicitation:

- Existing County Code and State law regulating door-to-door sales and solicitations;
- Enforcement of local and State regulations;

- Educational tools and resources, which may be used to alleviate public concerns about solicitation activities; and
- Regulatory methods of other municipalities in relation to door-to-door solicitations.

In addition, the report indicated that the County departments participating in this project would further examine the feasibility of residents placing appropriate signage on their property to discourage unwanted solicitors and various related issues including funding, signage text limitations, and enforcement of signage violations. The report further indicated that the working group would also examine the remedies available to the public under the California Penal Code if a solicitor or peddler does not honor the posting of an appropriate sign and report back to the Board within 90 days. An interim status report to your Board was prepared on September 27, 2001.

Summary of Working Group Conclusions

In preparation for this follow-up report, a working group was formed to discuss and analyze the feasibility of residents posting “no trespassing” or “no solicitors” signs on their property under provisions of the County code. The departments represented in the working group included: Regional Planning, Treasurer and Tax Collector, Consumer Affairs, Chief Administrative Office, Sheriff, District Attorney, and County Counsel.

After careful consideration of the issues involved, the working group reached a consensus that the use of *County sponsored* “No Trespassing” or “No Solicitors” signs would present potential liability and legal complications that could only be overcome through a substantial allocation of limited resources. However, the following tools and resources could be effective in deterring fraudulent solicitation/peddling activities in the unincorporated County areas:

1. Amend the County Ordinance to prohibit all forms of commercial solicitation during the hours of 8:00 p.m. to 8:00 a.m. However, constitutionally protected activities such as religious, charitable, and political solicitation would not be affected by such an amendment.

An amendment to the County Code to prohibit all forms of commercial solicitation between the hours of 8:00 p.m. and 8:00 a.m. would be key in addressing residents concerns, particularly senior citizens, regarding potential criminal activities that may occur in the late evening or early morning hours.

An amendment that imposes such restrictions would make it a violation of the County ordinance for any commercial solicitor who conducts solicitation activities during the restricted hours. Currently, such restriction applies only to those commercial solicitors that require a County license to solicit or peddle. The new ordinance would expand the restriction to include commercial sales and solicitations of all types during late evening and early morning hours. Consistent with longstanding legal principles, public agencies are entitled to impose reasonable time, place, and manner restrictions on such activities that commence in local communities. Violators would be subject to County criminal and/or civil penalties and may also be subject to revocation of their license. With respect to the issue of minors engaging in charitable solicitation, this area is fully regulated by State law. The State has an approved enforcement mechanism in place and conducts investigations into the violation of child labor and solicitation laws.

2. Use of community-based education programs targeted at enforcement within specific problem areas of the County (e.g., the Department of Consumer Affairs' Consumer News Alert flyer and guidelines provided to the Help Line Community Resource Advisors).

The following are comments from the County departments who participated in the working group:

Regional Planning

The Department's existing sign ordinance regulates signs on residential, commercial, and industrial property in the unincorporated areas of the County. Zoning enforcement staff presently respond to signage complaints on a case-by-case basis. Any amendments creating a comprehensive signage program involving residents posting of "no trespassing" or "no solicitor" signs would likely result in an increase in complaints which would increase the need for additional field inspections. Additional resources would subsequently be required to match the need for increased enforcement.

Consumer Affairs

The Department has prepared the attached Consumer News Alert flyer to serve as an educational tool on issues related to "door-to-door solicitation." The flyer provides information for residents on their rights under both State and local laws for sales and charitable solicitation taking place at their residence. It also informs residents of their right to post signs, such as "No Solicitors" if they want to discourage unwanted

solicitation and/or potential criminal activity. However, it does caution residents that it is not unlawful for individuals to solicit homes where such signs are posted. In addition to advice on what to be aware of, the flyer provides contact information where residents can obtain additional assistance.

Chief Administrative Office

CAO/OUAS reviewed the complaint logs of the Unincorporated Community Help Line. These reports document the types of complaints received in the unincorporated areas. No complaints for solicitation or peddling were documented in the reports during the period of January through December 2001.

As noted in our previous report, OUAS has agreed to work with the Department of Consumer Affairs to educate residents on their rights as consumers. OUAS has modified its marketing literature to add door-to-door solicitation to the list of available referral services offered through the Help Line and has also provided written guidelines to the Help Line Community Resource Advisors to assist with caller referrals.

The working group concluded that the most effective tool to alleviate solicitation and peddling nuisances in unincorporated communities should involve a thorough education program and targeted enforcement within specific problem areas. A community-based approach will allow County departments to focus education and enforcement activities without a significant need for additional resources. In addition, we believe that the costs for implementing a County-sponsored signage program would outweigh the potential benefits.

Sheriff's Department

The Department reported that it would require additional staffing and other resources to have officers available to respond to citizen complaints for violation of a County-sponsored signage program. However, the Department agreed to consider additional methods of enforcement in future proposals such as an abbreviated hearing process and a predetermined schedule of fines and penalties that could be imposed on violators of the County Code.

District Attorney

The District Attorney reported that under State law, the posting of "No Trespassing" or "No Solicitors" signage on residential property would have minimal impact on the District Attorney's ability to prosecute door-to-door solicitors for trespass violations (Penal Code Section 602). Under State law, it is not a violation of the trespass statute for a solicitor

to enter residential property for the purpose of solicitation, whether or not there is a no trespassing sign posted on the property. It would only be a violation of the trespass statute if the solicitor refused or failed to leave the property after being requested to do so by the owner, the owner's agent, or a peace officer at the owner's request.

A County ordinance making it a violation for a solicitor to enter residential property where a "No Trespassing" or "No Solicitors" sign was posted would raise significant Constitutional and State law issues. Even if these issues were resolved in favor of the County ordinance, enforcement of such an ordinance would encounter the same problems (limited resources and low priority status) as other code enforcement matters.

County Counsel

County Counsel reported that although a program involving the placement of County-sponsored signs is conceivable, certain precautions would be necessary to avoid Constitutional challenges. In this program, it would be important to note that political, religious, and charitable solicitation activities are not being prohibited. The First Amendment provides broad protections for political, religious, and charitable speech. Limits on such rights must be accomplished in the least restrictive manner. The enforcement of existing criminal laws prohibiting fraud, trespassing, and privacy violations appears to meet this goal.

In any new program, there also needs to be a strong commitment to building a uniform enforcement program in every unincorporated County community. In this regard, a program which relies on citizen arrests or citizens being solely responsible for enforcement action for compliance with "no solicitors" or "no trespassing" signs would raise numerous Constitutional and liability issues. However, continued enforcement and heightened awareness of existing laws and applicable restrictions should serve to deter and/or curtail fraudulent or unwanted solicitation activities.

Conclusion

A County ordinance to make it a violation for a solicitor to enter residential property where a "No Solicitors" or "No Trespassing" sign is posted would place additional burden on the resources of the affected departments to regulate and enforce such a program. In addition, such a program would raise significant Constitutional challenges.

The recommendation to amend the County Code to prohibit all forms of commercial solicitation during the hours of 8:00 p.m. and 8:00 a.m. will restrict soliciting to more acceptable hours and enforcement will be more cost-effective than enforcement of "No Solicitors" and/or "No Trespassing" signs. A County enforced ban on commercial

Each Supervisor
March 25, 2002
Page 6

activity during this time period would minimize confusion about the scope of the law, and this approach would be less likely to raise issues related to the First Amendment rights of those protected under political, religious, and charitable speech. In addition, the preparation and distribution of educational tools by the Department of Consumer Affairs and CAO/OUAS will assist residents in understanding how to protect their privacy and deter fraudulent or unwanted solicitors.

DEJ:LWP:PH
LS:DD:MJS:os

Attachment

c: Sheriff Leroy D. Baca
District Attorney Steve Cooley
Mark J. Saladino, Treasurer and Tax Collector
Steven Afriat, Chair, Business License Commission
James E. Hartl, Planning Director of Regional Planning
Violet Varona-Lukens, Executive Officer, Board of Supervisors

CONSUMER NEWS**ALERT**

DOOR-TO-DOOR SOLICITATION

Civil Code sections 1689.5 - 1689.11 Los Angeles County Code Chapter 7.62 & 7.24 Business & Professions Code sections: 17510 et seq.

Making purchases and charitable donations in the comfort of your living room may seem convenient. It can be. But you also can be pressured into unnecessarily buying something or making a donation by listening to promises, compliments, and double talk. So, before the doorbell rings, arm yourself with a lot of willpower and some knowledge of your rights under the law.

◆ BEFORE YOU OPEN THE DOOR:

- ✓ Remember, you don't have to let the seller in. You can refuse to open the door and ask the seller to leave the premises.
- ✓ Ask yourself if you really want or need the item being sold, **and** if you can afford it.
- ✓ Post a "No Solicitors" type sign on your property if you want to discourage sellers from disturbing you. However, in most areas it's not against the law for someone to knock on your door even when a sign is displayed.

◆ IF YOU DECIDE TO OPEN THE DOOR:

- ✓ Ask the seller for personal and/or employment identification and a business card with a telephone number and address on it.
- ✓ Ask to see the seller's County Solicitors' license. However, not all solicitors are required to have one (**this applies to residents of Los Angeles County unincorporated areas only**).
- ✓ If the solicitor requests charitable donations, ask to see his/her County-issued identification card (**this applies to residents of Los Angeles County unincorporated areas only**).

◆ IF YOU DECIDE TO BUY:

- ✓ With most products or services you buy at home for \$25 or more, you have the right to cancel the contract you signed within 3 days. Real estate and insurance are some exceptions.
- ✓ At the time of the sale, the seller **must** tell you of your right to cancel the contract or sale.
- ✓ The seller must also give you a contract in the same language used to discuss the purchase.

(over)



Los Angeles County Department of Consumer Affairs
500 West Temple Street, Room B-96
Los Angeles, California 90012-2706
1-800-593-8222, <http://consumer-affairs.co.la.ca.us>

✓ **CAREFULLY LOOK AT ANY CONTRACT BEFORE YOU SIGN IT.** A contract signed at your home must have the following:

- ☐ A "Notice of Cancellation", with all blanks filled in
- ☐ The seller's address
- ☐ The terms of payment clearly stated
- ☐ The correct date of sale

✓ **DON'T SIGN IF ANY OF THE ABOVE ARE MISSING!**

◆ **IF YOU DECIDE TO CANCEL THE SALE WITHIN 3 DAYS:**

- ✓ Return the cancellation form on the contract you signed by certified mail with a return receipt card. This will give you proof that you cancelled within 3 days.
- ✓ The seller must refund all your money within 10 days after you cancel.
- ✓ If you have to return the item(s) you bought, the seller must either pick them up or pay the cost of shipping them within 20 days. If the seller doesn't do this, you may keep the item(s).

◆ **WHERE CAN I GET HELP?**

Los Angeles County Department of Consumer Affairs:

1-800-593-8222, <http://consumer-affairs.co.la.ca.us>

Provides information and assistance with any consumer questions.

Los Angeles County Treasurer/Tax Collector - Business License Division:

213-974-2011, <http://ttax.co.la.ca.us>

Issues licenses when required in Los Angeles Unincorporated County areas.

Los Angeles County Business License Commission: 213-974-7691

Issues permits for charitable solicitation in the Los Angeles Unincorporated County areas.

California Office of the Attorney General: 916-445-2021, www.ag.ca.gov

Maintains a registry of all California registered charities.

Unincorporated Community Help Line: 1-888-924-HELP(4357)

Assists Unincorporated Los Angeles County residents find the County department that best meets their service needs.

Your local Police or Sheriff's station:

If a solicitor will not leave your home after being requested to leave. Or, if you feel that you are being threatened and need assistance.

For more information call the

Los Angeles County Department of Consumer Affairs: 1-800-593-8222.

May be reprinted if a credit line is included acknowledging Los Angeles County Department of Consumer Affairs.